APPELLANT PRO SE:

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ATTORNEY FOR APPELLEE:

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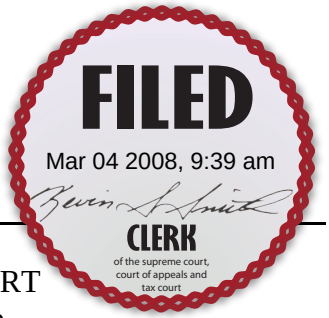
IN THE
COURT OF APPEALS OF INDIANA

TOBY J. SEILER,	)	
	)	
Appellant-Plaintiff,	)	
	)	
vs.	)	No. 52A02-0612-CV-1126
	)	
MARK DILLMAN, ANTHONY BURTON, and RAT, LLC,	)	
	)	
	)	
Appellees-Defendants.	)	



APPEAL FROM THE MIAMI SUPERIOR COURT
The Honorable Douglas A. Tate, Special Judge
Cause No. 52D01-0309-PL-281

March 4, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

RILEY, Judge

STATEMENT OF THE CASE

Appellant-Plaintiff, Toby Seiler (Seiler), appeals the trial court's judgment in favor of Appellees-Defendants, Mark Dillman (Dillman), Anthony Burton (Burton), and RAT, LLC (Rent-a-Trailer), on Seiler's conversion claim.

We affirm.

ISSUE

Seiler purports to raise several issues on appeal. However, because he has failed to provide any cogent argument, as required by Indiana Appellate Rule 46(A)(8)(a), he has waived all issues on appeal.

FACTS AND PROCEDURAL HISTORY

In September 2001, Old-Key Construction paid Seiler $4,500 to move a modular home that had been damaged by fire. Seiler made arrangements with Dillman to store the home with a business called Rent-a-Trailer for $100 per month. As of July 2003, Seiler had made no payments to Dillman for the storage of the home. In August 2003, Burton purchased the home at a public auction for $100. On September 18, 2003, Seiler filed a Complaint against Dillman, Burton, and Rent-a-Trailer alleging conversion.[1] On September 21, 2006, the trial court entered judgment in favor of Dillman, Burton, and Rent-a-Trailer. Seiler now appeals.

DISCUSSION AND DECISION

The Statement of Issues in Seiler's brief on appeal consists of seventeen individually-numbered paragraphs. We catch his general drift: he believes that he was, and is, the

[1] Dwight Dillman was also named as a defendant in Seiler's Complaint. The trial court dismissed him

rightful owner of the home at issue. Beyond this broad gripe, however, he has failed to articulate any specific reason for us to overturn the judgment of the trial court. In entering judgment in favor of the defendants, the trial court relied upon Indiana Code § 32-33-14-2(a), which provides, in pertinent part:

> If goods, wares, or merchandise have remained in the possession of a person, firm, limited liability company, or corporation described in section 1 of this chapter for a period of at least six (6) months without the payment of the charges due, the goods, wares, or merchandise, or as much of the goods, wares, or merchandise as is necessary, may be sold at public auction to pay the amount of the lien and the expenses of the sale.

This provision establishes that warehousemen, such as Dillman and Rent-a-Trailer, do, as a general matter, have statutory authority to sell property that has been in their possession for at least six months without payment. Because Seiler has failed to provide us with any cogent argument, and because it is not our role to formulate arguments on behalf of parties, even if they are acting *pro se*, we must affirm the judgment of the trial court.

Turning first to the technical requirements imposed by the Indiana Rules of Appellate Procedure, we note that Seiler's brief fails in several regards. First, the table of authorities is supposed to be a simple list of the cases, statutes, rules, and other authorities cited in the brief, along with references to the pages on which the authorities are cited. Ind. Appellate Rule 46(A)(2). Seiler's ten-page Table of Authorities includes over seven pages of case summaries and no references to the pages on which the authorities are cited. Second, the statement of issues is supposed to "concisely and particularly describe each issue presented for review." App. R. 46(A)(4). Seiler's Statement of Issues is a five-page, seventeen-paragraph mixture of alleged facts, citations, and accusations that in no way facilitates our

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from the suit in March 2004.

review of the trial court's judgment. Conversely, Seiler's Statement of the Case contains absolutely no page references to the record on appeal or appendix, as required by Indiana Appellate Rule 46(A)(5). Rather, it is a two-page listing of bald assertions and allegations. Finally, the statement of facts is supposed to be a narrative description of the facts relevant to the issues presented for review, supported by page references to the record on appeal or appendix. App. R. 46(A)(6). While Seiler's Statement of Facts could be described as narrative and is largely in chronological order, only a handful of the "facts" are supported by citations to the record, leaving us with no way to verify their existence.

The more pressing problem, though, is Seiler's failure to provide us with a cognizable argument as to any issue. We initially note that while Seiler was represented by counsel at the trial court level, he has proceeded *pro se* on appeal. We generally hold *pro se* litigants to the same standard as licensed lawyers. *Payday Today, Inc. v. McCullough*, 841 N.E.2d 638, 640 n.2 (Ind. Ct. App. 2006). However, we also prefer to decide cases on the merits. *Olson v. Alick's Drugs, Inc.*, 863 N.E.2d 314, 321 (Ind. Ct. App. 2007), *reh'g denied*, *trans. denied*. Therefore, we have, at times, extended some measure of leniency to *pro se* litigants. *See, e.g., Bedree v. DeGroote,* 799 N.E.2d 1167, 1171 (Ind. Ct. App. 2003) (addressing arguments even though they were "convoluted and confusing, and decidedly short of the standard established in the appellate rules."), *trans. denied*. But when the flaws in a brief would require us to move beyond leniency and to become advocates for a party, a line must be drawn. *See Young v. Butts*, 685 N.E.2d 147, 151 (Ind. Ct. App. 1997) ("A court which must search the record and make up its own arguments because a party has not adequately

presented them runs the risk of becoming an advocate rather than an adjudicator."). This is such a case.

Indiana Appellate Rule 46(A)(8)(a) provides: "The argument must contain the contentions of the appellant on the issues presented, supported by cogent reasoning. Each contention must be supported by citations to the authorities, statutes, and the Appendix or parts of the Record on Appeal relied on, in accordance with Rule 22." The argument section of Seiler's brief includes many citations to the record on appeal and to the authorities listed in his extensive Table of Authorities. However, Seiler has not taken the additional step of shaping those citations into a meaningful, cogent argument, and we will not do so on his behalf. A party who fails to comply with Appellate Rule 46(A)(8)(a) waives the issues in question. *Flowers v. Flowers*, 799 N.E.2d 1183, 1187 (Ind. Ct. App. 2003).

CONCLUSION

Based on the foregoing, we conclude that Seiler has waived all of the issues he purports to raise on appeal by failing to provide any cogent argument, as required by Indiana Appellate Rule 46(A)(8)(a).

Affirmed.

KIRSCH, J., and MAY, J., concur.